

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
SOUTHERN DIVISION**

**KEITH LaDALE PORTER, #N7247**

**PETITIONER**

**v.**

**CIVIL ACTION NO. 1:19-cv-669-LG-MTP**

**JOE ERRINGTON**

**RESPONDENT**

**ORDER OF DISMISSAL WITHOUT PREJUDICE**

This matter is before the Court, *sua sponte*, for consideration of dismissal. Petitioner Keith LaDale Porter, an inmate incarcerated at the South Mississippi Correctional Institution, Leakesville, Mississippi, filed this Petition for habeas corpus relief pursuant to 28 U.S.C. § 2254 on September 27, 2019. (Pet. ECF No. 1). Having reviewed the Petition and the Court's records as well as the applicable case law, the Court concludes that the case should be dismissed without prejudice.

**I. Background**

Porter challenges his convictions and sentences for possession of a firearm by a convicted felon and armed robbery in the Circuit Court of Harrison County, Mississippi, on March 21, 2017. (Pet. 1, ECF No. 1). Porter received a 15-year sentence. *Id.* A review of the records reveals that Porter's previously filed petition for habeas relief pursuant to 28 U.S.C. § 2254 challenging the same conviction and sentence as presented in the instant civil action is still pending. *See Porter v. Errington*, Civil Action No. 1:19-cv-434-LG-JCG (S.D. Miss. filed Aug. 7, 2019).

## II. Discussion

A district court has the authority to dismiss a petition for habeas relief when – as here – it duplicates a pending petition for habeas relief. *See Morris v. Stephens*, 599 F. App'x 148, 149 (5th Cir. 2015) (stating that the district court's dismissal of § 2254 petition as duplicative of another pending § 2254 petition was proper) (citing *Slack v. McDaniel*, 529 U.S. 473, 478 (2000) (“Federal courts . . . retain broad powers to prevent duplicative or unnecessary litigation.”)).

## III. Conclusion

Because the instant petition for habeas relief is duplicative of a pending habeas action, it will be dismissed without prejudice so that Porter may proceed with his pending petition for habeas relief in *Porter*, Civil Action No. 1:19-cv-434-LG-JCG.

**IT IS ORDERED AND ADJUDGED** that this Petition for habeas relief is **DISMISSED WITHOUT PREJUDICE** so that Petitioner Keith LaDale Porter may proceed with his pending habeas petition. A separate final judgment will be entered pursuant to Federal Rule of Civil Procedure 58.

**SO ORDERED AND ADJUDGED** this the 25<sup>th</sup> day of October, 2019.

s/ *Louis Guirola, Jr.*

LOUIS GUIROLA, JR.  
UNITED STATES DISTRICT JUDGE